

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|                                  |   |                 |
|----------------------------------|---|-----------------|
| HAROLD RAY THORNSBURY            | ) |                 |
|                                  | ) |                 |
| COMPLAINANT                      | ) |                 |
|                                  | ) |                 |
| vs.                              | ) | CASE NO. 98-062 |
|                                  | ) |                 |
| FLEMING COUNTY WATER ASSOCIATION | ) |                 |
|                                  | ) |                 |
| DEFENDANT                        | ) |                 |

O R D E R

On January 15, 1998, Harold Ray Thornsburg filed a formal complaint against the Fleming County Water Association ("Fleming Water") alleging that it has refused to provide water service to his property until he grants the utility a 4,000 foot easement across his property. Mr. Thornsburg further alleges that he has paid the required tap-on fee and that service could be provided from an existing main located along a highway right-of-way adjacent to his property.

By Order dated February 4, 1998, Fleming Water was ordered to satisfy or answer the complaint. Fleming Water filed an answer which confirms that service has been refused due to Mr. Thornsburg's failure to grant an easement in excess of 4,000 feet. The easement would allow Fleming Water to install a new water main which would connect two existing mains. The answer also cited Sheet No. 4, paragraph (g) of Fleming Water's tariff regarding easements, which specifies that each customer must grant an easement at no cost to the utility. Finally, Fleming Water suggested that its Board might be inclined to waive the tap-on fee if Mr. Thornsburg was agreeable to both granting the easement and

cleaning up the rocks and reseeding the easement area after the new water main is installed.

The Commission Staff prepared a Complaint Investigation Report ("Staff Report"), which was filed in the record on May 5, 1998. The Staff Report sets forth a summary of the pertinent facts and conclusions based on an on-site inspection of Mr. Thornsby's property and Fleming Water's water mains. A public hearing was held at the Commission's offices on May 22, 1998. Testimony was presented by Mr. Thornsby, Fleming Water, and Staff.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that Mr. Thornsby has paid to Fleming Water a tap-on fee and requested service to his property which fronts on State Highway 344. The property consists of approximately 98 acres with a driveway onto State Highway 344 where Fleming Water has an existing water main. That main was recently extended to Mr. Thornsby's property line in anticipation of serving him as well as a new water tank which is planned to be constructed next to his property.

Fleming Water is able to set a meter to provide service to Mr. Thornsby without an easement on his property. The approximately 4,500 foot easement was requested by Fleming Water to enable it to tie together two noncontiguous water mains. While the tying together of these mains would provide some benefit to Fleming Water, there is no evidence of an existing deficiency in water volume or pressure which would necessitate the immediate construction of this connecting main. Fleming Water's tariff requires customers to grant at no cost "easements reasonably required by the Company for the installation and maintenance of the Company's meter and water lines." In this case, no easement is


necessary for Fleming Water to provide service to Mr. Thornsby's property or to any other unserved properties. Under these circumstances, it is not reasonable to require Mr. Thornsby to grant an easement of approximately 4,500 feet as a condition for service when that service can be provided from an existing main adjacent to his property without any additional easement.

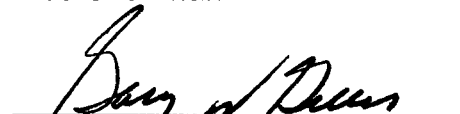
IT IS THEREFORE ORDERED that Fleming Water shall provide water service to Mr. Thornsby's property by setting a meter adjacent to his driveway on State Highway 344. This meter shall be connected to Fleming Water's existing main at that location and no easement shall be required as a condition of service.

Done at Frankfort, Kentucky, this 1st day of July, 1998.

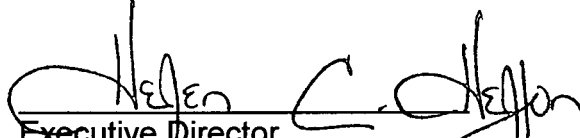
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director